



This form is to be used in conjunction with a rule review when ancillary documents are also being reviewed as part of the review process.

Ancillary documents are interpretive or policy statements that advise the public of the Department's opinions, approaches, or likely course of action. They include documents such as Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs), and Revenue Policy Memorandums (RPMs). Ancillary documents do not have the "force of law" that a rule is given under the Administrative Procedures Act (Chapter 34.05 RCW). Court decisions, Board of Tax Appeals decisions (BTA), and Washington Tax Decisions (WTDs) **are not** ancillary documents.

Reviewer: Sally Giza, Field Auditor Date Reviewed: June 6, 2000

Ancillary Document being reviewed (provide number and title): ETA 192.03.189—Agricultural organizations working with governmental units subject to tax

Date last Issued: August 26, 1966

This document is being reviewed in conjunction with (provide WAC number and title): WAC 458-20-189 – Sales to and by the state of Washington, counties, cities, towns, school districts and fire districts.

Purpose of the document: To explain that nonprofit agricultural organizations composed of farmers working closely with governmental units are not entitled to the B&O tax exemption provided to state and federal entities.

	Yes	No
Is the document clearly written?	<input checked="checked" type="checkbox"/>	<input type="checkbox"/>

	Yes	No
Does the document provide accurate and useful information? (though in part incomplete)	<input checked="checked" type="checkbox"/>	<input type="checkbox"/>

	Yes	No
Does the document provide information not currently in the rule?	<input type="checkbox"/>	<input checked="checked" type="checkbox"/>



Review recommendation:

- A. Update
- B. Repeal
- C. Leave as is
- D. Incorporate into rule and repeal

X

Briefly explain your recommendation:

While this document is substantially correct, it is in part incomplete and the taxability of entities doing business with state and federal agencies is addressed elsewhere.

- As ETA 192 notes, RCW 82.04.220 imposes the B&O tax on every person engaging in business activities, and a nonprofit organization is a “person” per RCW 82.04.030.
- Rule 189(3)(a) currently explains that sellers are subject to the B&O tax upon sales to the state of Washington without distinguishing between profit and nonprofit organizations or whether tangible personal property or services are being sold.
- Rule 190 explains that there is no B&O tax deduction allowed in respect to business transacted with the United States. Again, there is no distinction between profit and nonprofit organizations or whether property or services are being sold.
- ETA 192 also fails to recognize chapter 200, Laws of 1998 (codified as RCW 82.04.338), which provides a B&O tax exemption under certain circumstances to nonprofit organizations working with the Hop Commodity Commission of Washington.

Manager Action:

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Accepted recommendation

Date: _____

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Returned for further review

Date: _____

Comments
